

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FORTRESS VALUE RECOVERY FUND I,) CASE NO. 1:11-CV-00200
LLC)
Plaintiff,) JUDGE JAMES S. GWIN
v.)
COLUMBUS COMPONENTS GROUP,)
LLC, CCG HOLDINGS, LLC, PJ)
MANAGEMENT GROUP, LLC,)
HAWTHORN MANUFACTURING)
CORPORATION, and PATRICK JAMES)
Defendants.)

AFFIDAVIT OF PATRICK J. KEATING IN SUPPORT OF MOTION TO COMPEL

STATE OF OHIO)
) ss.
COUNTY OF SUMMIT)

Now comes Patrick J. Keating, being first duly sworn according to law, and states, to the best of his knowledge, information, and belief, as follows:

1. I am over twenty-one (21) years of age, a resident of Summit County, Ohio, and I make this Affidavit upon personal knowledge.
2. I am an attorney licensed to practice law in the State of Ohio and before this Court.
3. I represent Defendants, Columbus Components Group, LLC, CCG Holdings, LLC, and PJ Management Group, LLC, in the above-referenced case.
4. On April 13, 2011, I attended the Case Management Conference in the above-referenced case.

EXHIBIT

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5. At the Case Management Conference, Attorney Scott Balber, on behalf of Plaintiff, represented that he would send a letter to counsel for the respective Defendants shortly after the Case Management Conference which would set forth the basis for Plaintiff's position that it has standing to pursue the claims set forth in its Complaint with specific reference to the documents which Plaintiff has produced in its Initial Disclosures.

6. On Tuesday, April 19, 2011, six days after the Case Management Conference, I sent an email to Mr. Balber, inquiring when counsel for the Defendants might expect to receive Mr. Balber's promised letter. A copy of my email to Mr. Balber dated April 19, 2011, which was included in my letter to this Court dated April 28, 2011, is attached hereto and incorporated herein as Exhibit 1.

7. I never received any response to my email dated April 19, 2011.

8. Approximately one week later, Attorney Pete Elliott, counsel for co-defendants Hawthorn Manufacturing Corporation and Patrick James, and Mr. Balber engaged in an email exchange on discovery issues, at which time I learned for the first time that Mr. Balber had now changed his position and would not be providing the letter promised at the Case Management Conference until he had responded to the Defendants' discovery requests. Mr. Balber refused Mr. Elliott's suggestion for a conference call to discuss this issue.

9. I sent Mr. Balber a letter on the morning of April 28, 2011. A copy of my letter dated April 28, 2011, which was included in my letter to this Court dated April 28, 2011, is attached hereto and incorporated herein as Exhibit 2.

10. Mr. Balber and I then engaged in an email exchange on April 28, 2011. A copy of our email exchange dated April 28, 2011, which was included in my letter to this Court dated April 28, 2011, is attached hereto and incorporated herein as Exhibit 3.

11. Pursuant to Local Rule 37.1, on April 28, 2011, I sent a letter to this Court requesting a telephone conference with the Court to assist in resolving this dispute. A copy of my letter to this Court dated April 28, 2011 is attached hereto and incorporated herein as Exhibit 4.

12. I hereby certify that I have made repeated and sincere good faith efforts to resolve this discovery dispute with Mr. Balber, but he has refused to engage in any discussions to seek an amicable solution in this matter.

13. As of the date of this Affidavit, I still have not received any such letter from Attorney Scott Balber as promised at the Case Management Conference in the above-referenced case.

FURTHER AFFIANT SAYETH NAUGHT.

Patrick J. Keating

STATE OF OHIO)
)
 ss
SUMMIT COUNTY)

Sworn to before me and subscribed in my presence at Akron, Ohio, this 2nd day of May, 2011.

Patricia M. Zellia
Notary Public

«AK3:1064708_1»



Patricia M. Zellia
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 02/25/12